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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,227	10/02/2003	Ahmad Ayaz	2060-02800	5892

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EXAMINER

CRABTREE, JOSHUA DAVID

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,227

Applicant(s)

AYAZ, AHMAD

Examiner

Joshua D. Crabtree

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/20/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claims 10 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.** In order for a claim to be statutory it must produce a useful, concrete and tangible result. In the instant case, the claims fail to show a concrete result. In order to be concrete, the result must be assured, or have a reasonable expectation of success. Claims 10 and 14 both recite the feature of “enhancing student retention and recall”. There is no reasonable expectation that users of the claimed method will achieve the result of enhanced retention and recall. Although it is possible that some users will achieve this result, as claimed, it is reasonably expected that some users may not experience any improvement with regard to retention and recall. For at least this reason it is unreasonable to expect that all users of the method, or even a significant majority, will achieve enhanced retention and recall. As such, the claim fails to produce a concrete result, and is found to be non-statutory.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Regarding claim 1 the single means claim (i.e., presenting dramatic interactions, as recited in the preamble), where a means recitation does not appear in combination with another recited element of means, is subject to undue breadth rejection. In re Hyatt, 708 F. 2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983). It is noted that in the specification the method includes specific structure and other components necessary to perform the intended functionality of the method (i.e. providing instruction of a target language to students), however, the current single step covers every conceivable structure for achieving the stated result, is held non-enabling for the specification discloses at most only those known to the inventor. Additionally, the dependent claims 2-20 fail to correct this deficiency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 8-23, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (Smith, Stephen M., *The Theater Arts and the Teaching of Second Languages*, Addison-Wesley, 1984, p.38-45, v, 84-85, 87-98, 135-137, 147, P53.S57) in view of West et al. (US 5,649,826).

Smith discloses methods of teaching students a second language through the use of theater arts (See Preface, pp. v-vii).

With regard to claims 1 and 30, and the limitations wherein the dramatic interaction between at least two teacher actors includes pre-scripted dialog in the target language between the at least two teacher-actors, the pre-scripted dialog involving delivery of a plurality of preselected target language items, and includes embellishments to the pre-scripted dialog, the embellishments being adapted to facilitate comprehension of the plurality of preselected target language items on the part of the one or more students, Smith discloses combining scripted dialog with improvisation, using at least two actors, using target language items (pp. 88-90).

With regard to claim 30, and the limitation of including embellishments to the pre-scripted dialog, adapted to facilitate comprehension of the plurality of preselected target language items on the part of the one or more students, Smith discloses improvised dialog, pertaining to target language items, for use with more than one student (pp. 88-90).

With regard to claims 1 and 30, Smith discloses that the method may be used to teach young children. Smith does not disclose the limitation wherein the pre-scripted

dialog and embellishments thereto are configured for recreating a learning environment akin to childhood first language acquisition. West et al. teach a language instruction method which progressively increases the percentage of a foreign language being presented to the learner (Col. 2: 60 – Col. 3: 11). West et al. teach that a total immersive language learning experience can work well, when the learner is forced to use the target language, with no other possible options, which is similar to how young people learn to speak (Col. 1: 28-50). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of West et al. into the invention of Smith in order to provide a language instruction system in which the learners are presented the target language in a manner similar to the manner in which a child learns to speak. West teaches that this approach can be successful (Col. 1: 44-50).

With regard to claim 2, Smith discloses using props in the theatrical performance (pp. 133-134). Smith discloses using repetition (pp. 89). With regard to exaggerated gesturing, Smith discloses an “Acting without Words” scenario in which an actor must convey description of an object or location to an audience, without speaking (pp. 84-85). Smith also discloses using the game of “Charades” as a way to convey language items (pp. 100-101). Smith also discloses the incorporation of exaggerated intonation (pp. 38-41).

With regard to claim 3, and the limitation wherein the embellishments comprise extra-linguistic clues, Smith discloses the incorporation of non-verbal communication (pp. 42-45).

With regard to claim 4, and the limitation wherein the target language items comprise vocabulary items, Smith discloses performing a scene based on one of a list of words (pp. 89-90).

With regard to claim 8, and the limitation wherein the plurality of target language items have not previously been taught to the one or more students, Smith discloses that the method may be used to teach beginners (i.e., people who have not previously been taught), and young children, as well as intermediate and advanced students (pp. v).

With regard to claim 9, and the limitation wherein the dramatic interactions comprise a play and at least one skit, Smith discloses production of a play (Chapter 4, pp. 128-156). With regard to using skits, Smith discloses using performance of short scenes (pp. 87- 98).

With regard to claim 10, and the limitation wherein the play involves a plot or story line for enhancing student retention and recall of the at least one target language item, Smith discloses examples of story lines which could be used by the actors (pp. 87- 88).

With regard to claim 11, and the limitation wherein the play comprises a plurality of segments each associated with at least one target language item, Smith discloses creating scenes, each of which are based on a target word (pp. 89).

With regard to claim 12, and the limitation wherein each of the segments is associated with between about one and about five target language items, Smith

discloses scenes based on target words, as described above. By using at least one target word, the range of between 1 and 5 is met by the reference, as 1 falls within the range of 1-5.

With regard to claim 13, and the limitation wherein the at least one skit comprises limited dialog, the limited dialog comprising sentences involving the repetition of at least one target language item in the sentences, Smith discloses creating short scenes based on target words, and repeating the exercise several times (pp. 89-90).

With regard to claim 14, Smith discloses that students participate in the dialog (pp. 90).

With regard to claim 15, and the limitation wherein the play comprises a plurality of segments each associated with at least one target language item, Smith discloses creating scenes, each of which are based on a target word (pp. 89). Smith also discloses performing a play, composed of a plurality of segments, or "beats" (pp. 135-137).

With regard to claims 1-18, and the limitations wherein the play and at least one skit are related via at least one target language item, and each skit is related to the play via at least one target language item, and wherein the at least one skit comprises a plurality of skits, further wherein the skits in sum involve all target language items from the play, the play of Smith is performed in a target language, for the purpose of language instruction. Therefore, the play, and the sections thereof, are inherently related via target language items.

With regard to claim 19, and the limitation wherein the dialog between the teacher-actors in each dramatic interaction is exclusively in the target language, Smith discloses performance of scenes in the target language (pp. 87).

With regard to claim 20, Smith does not disclose the limitation wherein the delivery of target language items avoids the conscious teaching of grammar. West et al. teach a foreign language instruction method in which the learner taught a language in an entertaining fashion, such that the user learns the language without being consciously aware of the learning (Col. 5: 49-57; Col. 6: 50-56). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of West et al. into the invention of Smith in order to provide a language instructional system in which the students learn a language without being aware that they are learning. This approach could be less monotonous for the students. If the students are aware they are learning, it might be a more entertaining experience.

With regard to claim 21, and the limitation wherein the presenting step comprises the at least two teacher-actors presenting the dramatic interactions live, Smith discloses live performance by the actors (Chapter 4 discusses putting on a play).

With regard to claims 22 and 23, and the limitations wherein the presenting comprises presenting the dramatic interactions via a multimedia arrangement, including presentation via videocassette, Smith discloses videotaping and playing back of the performance (pp. 147).

4. **Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of West et al., as applied above, and further in view of Dimitrova et al.** (Dimitrova, Vania, et al., Learning Terminology in a Foreign Language, Proceedings of the International Conference on Recent Advances in Natural Languages, Tzigov Chark, Bulgaria, September, 1997 [Retrieved 9-19-2006]. Retrieved from the Internet: <<http://scholar.google.com/url?sa=U&q=http://www-it.fmi.uni-sofia.bg/larflast/papers/ranlp97.pdf>>).

With regard to claims 5-7, and the limitation wherein the target language items comprise between 10 and 20 lexemes, selected from at least one set of high frequency lexemes, and graded in accordance with an instructional level intended for the students, Smith discloses using between 10 and 20 target words (pp. 89). Smith also discloses that the method may be used for students of various instructional levels, from beginning to advanced (pp. v). Smith, as modified by West et al., do not disclose using lexemes as target words. Dimitrova teaches a language learning approach, in which emphasis is placed on mastering the word forms of a lexeme and their correct usage (Col. 3: 34-55). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Dimitrova into the invention of Smith, as modified by West et al., in order to provide a language instruction system in which the students are required to learn various forms of a lexeme.

5. **Claims 24, 25, 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of West et al., as applied above, and further in view of West et al. (US 2002/0058234).**

Smith, as modified by West, does not disclose presenting the dramatic interactions via DVD, video compact disc, television broadcast, computer, and Internet. West teaches a foreign language instruction method in which learning material is delivered through media such as DVD, compact disc (Paragraph [0060]), television broadcast, computer, and Internet (Paragraphs [0065 – 0070]). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of West into the invention of Smith, as modified by West, in order to provide additional media through which to present the educational material.

6. **Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of West et al., as applied above, and further in view of Ueda (US 2003/0198921).**

Smith, as modified by West, does not disclose presenting the dramatic interactions via a film. Ueda teaches a language learning method in which instructional material is presented via a film (Paragraph [0007]). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teaching of Ueda into the invention of Smith, as modified by West, in order to provide additional media through which to present the educational material.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zilberman (US 6,341,958) teaches a method for acquiring a foreign language.

Wen et al. (US 2004/0214145) teaches a sentence conversation teaching method which uses role-playing.

Milner (US 2003/0203343) teaches a foreign language teaching tool.

Fernandez et al. (US 4,112,595) teach a language instruction device.

Marmorstein et al. (US 2005/0048449) teach a system and method for language instruction.

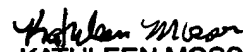
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D. Crabtree whose telephone number is 571-272-8962. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC
Joshua D. Crabtree
September 20, 2006


KATHLEEN MOSSER
PRIMARY EXAMINER